

AO 243 (Rev. 2/95)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT.
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District Massachusetts - Worcester	
Name of Movant Teresa Smith		Prisoner No. 80378-038	Case No. 02-40029-NMG
Place of Confinement Federal Prison Camp, 33½ Pembroke Station, Danbury, CT 06811			
UNITED STATES OF AMERICA		V. (name under which convicted)	

MOTION

1. Name and location of court which entered the judgment of conviction under attack
 United States District Court
 Federal Building and Courthouse
 595 Main Street, Worcester, MA 01608
2. Date of judgment of conviction
 April 10, 2003 (amended May 8, 2003)
3. Length of sentence
 57 months
4. Nature of offense involved (all counts)
 Counts 1-5: Mail Fraud - 18 USC §1341
 Counts 6-10: Wire Fraud - 18 USC §1343

5
 10014 NMG

5. What was your plea? (Check one)

(a) Not guilty ☐
 (b) Guilty ☒
 (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

Entered a guilty plea on all counts.

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☐
 (b) Judge only ☐ N/A
7. Did you testify at the trial?
 Yes ☐ No ☐ N/A
8. Did you appeal from the judgment of conviction?
 Yes ☐ No ☒

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9. If you did appeal, answer the following: N/A

(a) Name of court

(b) Result

(c) Date of result

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court United States District Court, Worcester, MA

(2) Nature of proceeding

Emergency Motion for Stay and Extension of Self-Reporting Date

(3) Grounds raised

Movant required a stay and extension of self-reporting date due to her need for medical consultation.

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result

Motion granted.

(6) Date of result

June 4, 2003

(b) As to any second petition, application or motion give the same information:

(1) Name of court United States District Court, Worcester, MA

(2) Name of proceeding

Emergency Motion for Stay and Extension of Self-Reporting Date

(3) Grounds raised

A stay and extension of self-reporting date was due to Movant's need to undergo a surgical biopsy and removal of breast lump per surgeon's order. Stay was necessary to accomodate surgery, recovery and follow-up visit with surgeon.

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result Motion granted.

(6) Date of result June 26, 2003

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒(2) Second petition, etc. Yes ☐ No ☒

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

N/A

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one:

The sentence imposed by the Court is open to collateral attack because it results in a fundamental miscarriage of justice.

Supporting FACTS (state *briefly* without citing cases or law):

See Verified Statement of Facts attached hereto as Addendum 1.

B. Ground two:

Supporting FACTS (state *briefly* without citing cases or law):

C. Ground three:

Supporting FACTS (state *briefly* without citing cases or law):

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D. Ground four:

Supporting FACTS (state *briefly* without citing cases or law):

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

Movant was unaware of the actual significance of the information she provided to the United States until on or about December 30, 2003 when she learned of the arrest of one Nikki Brindle in Indiana on internet fraud charges.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing
Angelo P. Catanzaro, Esq., Catanzaro and Allen
100 Waverly Street, Ashland, MA 01721

(b) At arraignment and plea
Angelo P. Catanzaro, Esq., Catanzaro and Allen
100 Waverly Street, Ashland, MA 01721

(c) At trial
N/A

(d) At sentencing
Angelo P. Catanzaro, Esq., Catanzaro and Allen
100 Waverly Street, Ashland, MA 01721

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(e) On appeal

N/A

(f) In any post-conviction proceeding

Angelo P. Catanzaro, Esq., Catanzaro and Allen
100 Waverly Street, Ashland, MA 01721

(g) On appeal from any adverse ruling in a post-conviction proceeding

N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐ Sentencing on all counts occurred at the same time.

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future:

N/A

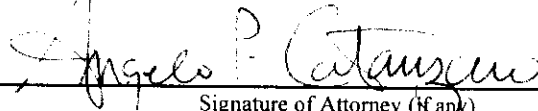
(b) Give date and length of the above sentence:

N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐ N/A

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.



Signature of Attorney (If any)

Angelo P. Catanzaro

I declare under penalty of perjury that the foregoing is true and correct. Executed on

12/15/04

Date

See attached verified statement
for Movant's Signature

Signature of Movant

Addendum 1

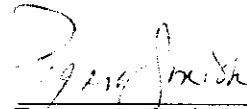
Verified Statement of Facts

1. Movant's convictions were predicated on her admitted orchestration of high volume "Ponzi" or pyramid fraud sales scheme utilizing the internet and mail, generally, and involving internet sales company eBay specifically.
2. Contemporaneous with Movant's entering a written plea agreement with the United States (October 30, 2002), Movant engaged in a comprehensive review and investigation into sales activity on eBay, generally, for the purpose of determining if other activities she had noticed during her utilization of the internet were similarly fraudulent. Movant was cognizant that providing assistance to the United States could have a positive impact on her sentence.
3. In November 2002, Movant alerted her attorney to the existence of specific activity on the internet involving eBay which Movant believed appeared similar to the activity she had wrongfully engaged in. At that time counsel verbally informed Assistant U.S. Attorney Adam Bookbinder of Movant's information. Attorney Bookbinder agreed to refer it to the postal service for investigation. The information provided to the United States pertained to an "eBay seller" identified as "Tippencanoe_ites and Nikki Brindle"
4. On December 20, 2002, Movant was arraigned.
5. On December 30, 2002, Movant, through counsel, forwarded to Assistant U.S. Attorney Bookbinder a written summary with attachments pertaining to the activity of "Tippencanoe_ites". Again Attorney Bookbinder agreed to pass the information to the appropriate authority for investigation. A copy of the summary is marked Exhibit A, is attached hereto and by reference is incorporated herein. The information provided to the United States clearly disclosed a pattern of unlawful and fraudulent conduct and identified the individual as "Nikki Brindle". On April 10, 2003 Movant was sentenced. Neither Movant's then Motion for Downward Departure nor the Government's recommendation included any reference or suggestion of Movant's attempted assistance. On November 6, 2003, Movant provided additional information to Assistant U.S. Attorney Bookbinder, a copy of which is marked Exhibit B, is attached hereto and by reference is incorporated herein.
6. Between December 30, 2002 and May 2004, counsel for the Movant occasionally spoke with Assistant U.S. Attorney Bookbinder regarding the information provided. At some point, the precise date of which is presently unknown to Movant and counsel, Attorney Bookbinder informed counsel that the information had been provided to the authorities and that eBay had been contacted.
7. On or about October 13, 2003, Nikki Brindle was arrested in Kosciusko County, Indiana for internet fraud on charges related to her eBay sales activities. On or about December 29, 2003, the Attorney General for the State of Indiana initiated civil fraud proceedings against her. Movant learned of these events on or about December 30, 2003, through the news media. The arrest and state prosecution of Nikki Brindle was for the conduct to which the Movant alerted the United States to in November of 2002 and involved in excess of \$500,000.00. On or about May 17, 2004 Assistant U. S. Attorney Bookbinder confirmed with Movant's counsel that the information that Movant had provided was

forwarded to eBay and that eBay had incorrectly determined an absence of wrongdoing regarding Brindle's accounts.

8. The information provided to the United States by the Movant was detailed, substantial comprehensive, well documented and necessarily disclosed a concerted effort on Movant's part to assist the government in the interception and prevention of ongoing criminal activity. Until the arrest and prosecution of Brindle by state officials was broadcast in the news media, Movant, who was then incarcerated, could not have known or been aware of the value of the assistance provided. Movant believes, and intends to confirm through counsel, that the FBI is engaged in an ongoing investigation of Nikki Brindle.
9. Movant reserves the right to amend, supplement and/or revise this statement and the within Motion as may be appropriate and necessary.

Signed under the pains and penalties of perjury this 15th Day of December 2004.



Teresa Smith

EXHIBIT

A

CATANZARO AND ALLEN

ATTORNEYS AT LAW
 15 West Union Street
 Ashland, Massachusetts 01721
 Telephone: (508) 881-4566
 Facsimile: (508) 231-0975

Angelo P. Catanzaro
 Jennifer M. D. Allen

Alison M. Fondo

Ronald M. Stone*
 Of Counsel

*Also admitted in Maine

FAX TRANSMISSION SHEET

DATE: December 30, 2002	
TO: Asst. U.S. Attorney Adam J. Bookbinder	
FAX NO: (617) 748-3974	
FROM: Angelo P. Catanzaro, Esq.	
RE: Teresa Smith	
FILE NO: CA-1973	
COMMENTS/SPECIAL INSTRUCTIONS: Adam: Submitted herewith please find (1) a copy of the appraisal that had previously been performed on the Iaconi family home. as you will note it conforms with the representation of value set forth in the Affidavit; (2) report prepared by Teresa regarding other potential eBay /internet fraud. We can discuss the significance of her efforts after you have had a chance to review same. Have a great New Year. Thank you. APC	
NUMBER OF PAGES	<input checked="" type="checkbox"/> No Original Following ORIGINAL FOLLOWING BY: <input type="checkbox"/> U.S. Mail <input type="checkbox"/> UPS Next Day Air <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Other

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IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL
 (508) 881-4566

APC - This is the information we've been discussing regarding eBay seller "tippecanoe_ites." As part of my therapy, and as part of my effort to become a part of the solution to this massive problem, and to make a penance for what has happened, I have been watching eBay for fraudulent listings in the hope that I can give this information to people who can put a stop to fraud before it occurs. There are so, so many fraudulent listings, and it seems eBay can't police their own auctions. The system is rife with scam artists, and people are getting ripped off daily, for thousands of dollars – talk about it is rampant on online message boards. I have found a lot of information on this particular seller – mainly through talking to her buyers and supplier - and there are approximately seven more sellers like her that I have been researching similarly.

Regarding this particular seller, the major red flag was her pricing – too good to be true. It looks like a Ponzi scheme, and judging from how long she has taken to deliver merchandise (typically 6-8 weeks plus), and discussions with her supplier, there is something fishy going on. It's fact that she's selling merchandise for hundreds of dollars (if not a thousand) less than what she is paying for it. I have talked to several of her customers, and talked to her supplier twice, and she's taking a very hefty loss on every product she sells. As she's been doing this since May, her aggregate loss is very likely to be in the neighborhood of 300 – 400K. It's important to note that not a single buyer who responded to my emails, indicated that their invoice showed the price that they paid for the product - or anything close to it.

Please pass this along – it may help someone else avoid becoming a victim of fraud, though undoubtedly once they suspend her ID, she'll promise refunds, eventually be unable to refund anyone, and a real mess will ensue. I don't know the legality of investigating her if nobody is really complaining, but since she's in clear violation of USPS standards for pre-sales, and surely if they can show that a loss is imminent, based on her supplier's records and eBay's records, they could at least suspend her eBay ID and cut off her cash flow, which is really stopping the scheme before it gets larger - and then see what happens. THEN they would likely get a lot of complaints, or at least force her to get a loan or something to rectify the situation and stop reselling (though I might add that if her credit was suitable for a loan or advance, she wouldn't be stalling on all of these orders. From my guess, she's got approximately 200+ orders outstanding right now). I'm sure that with the Chris Kim case all over the press, eBay is not eager to see another of their "Power Sellers" in the press right now.

I developed the following template so you can see all of the necessary information and hopefully pass it along to investigators. If they will look at it, and they have questions of me, I will help in any way that I can, and I will continue to submit any research I put together. If anyone does read this, please ask them to look at the whole thing as I have included as much detail as I could find out through research. I will continue to monitor and research, and can offer assistance in any way that it is needed.

Venue: eBay

Seller Primary ID: tippecanoe_ites

ID Active: Yes

Last Selling Activity: Currently has 33 auctions live (Friday 11/21/02) – she only posts auctions over the weekends

Other ID's: n/a

Seller Name: Nikki Brindle

Known Address Information: 2603 E. Pine Drive, Warsaw, IN 46582

Phone Information: (574) 453 – 2268 (also listed under Charles Brindle)

Contact Info Consistent: Yes (verified at BigYellow.com)

ID Verified: Yes

Square Trade: Yes

Member Since: August 1, 1998

ID Changes: No

ID Hacked: No

Power Seller: Was until 11/20; then power seller status removed; then returned to PS status on 12/9

Other Venues: Unknown

Storefront: eBay Stores (Interestingly, her storefront doesn't carry her electronic items, which seem to be what she sells the most of; the storefront only carries mostly floral products, see "Business Information" below)

Number Of Items Listed/30 Days: 212 (10/21 - 11/21) *199 of these were high-ticket (over \$1300)

Amount Actually Sold/30 Days (High Ticket): Approximately \$225,000.00

Orders Outstanding (Estimated): 200

Merchandise Type: High-end Canon and Sony camcorders; Apple Powerbooks, Toshiba and Sony laptops. Also sells many smaller, low-priced items (under 40.00) such as used goods and faux flowers.

Buy It Now Offered: No

Pricing Structure: Seller launches many auctions at a time (33 were live on 11/21) for high-end electronic goods and computers. She seems to launch them late on Thursdays to run through the weekends - this could be intentional, as it's common knowledge that eBay support staff is at a minimum over the weekend, and sellers are not policed as carefully over the weekends. Seller sets reserve prices very low in order to boost bids and move merchandise consistently. Reserve prices appear to be set at 400 - 1000 below seller's probable cost for each item (see supplier information below). Recently (within the past week) her sales activity has significantly increased, and she's now offering "Buy it Now" as an option, which was not an option before. (To generate quicker cash flow?) Her BIN prices are still set way below reasonable retail prices, though her reserves are set lower; see below.

Reserve Pricing: Reserves appear to be set as follows, amounts are approximate. Average loss appears to be 300 -1000, per product shipped. The following products are examples of products most frequently sold, and do not include all high-ticket items recently sold.

Canon XLI Camcorder: 2400 (retails for 3629)

Sony DSR PD150 Camcorder Kit: 2700 (retails for 3390)

Sony DCR-VX2000 Camcorder: 1950 (retails for 2999, on sale)

Apple Titanium Powerbook, 800 Mhz Laptop: 1800 (retails for 2300)

Toshiba Laptop, Model 5105-S501: 1200 (retails for 1800, with deduction for 100 mail in rebate)

Toshiba Laptop, Model 1955: 1700 (retails for 2000)

Sony GRX 650 Laptop: 1600 (retails for 2199)

Payment Types Accepted: Accepts Money Order, Certified Check, Wire Transfer. Began accepting PayPal within past month. Indicates in listing that Money Order or Checks or Wire Transfer are preferred rather than PayPal.

Specified Presale: Yes

USPS or Ebay Compliant: No (exceeds 30 days per transaction regularly)

Average Advertised Delivery: 4-6 weeks

Average Actual Delivery: 8 weeks plus

Refund Information: Feedback and buyer contact both indicative of seller sending "extra" on refunds (amount mentioned so far is \$50) to induce buyers to leave positive feedback, thus further enticing future bidders to bid on auctions.

Shill Bidding Present: Unknown

Feedback Positive: 1478 (as of 11/21)

Feedback Negative: 10

Feedback Neutral: 9

Feedback Analysis: Over a 30 day period spanning 10/10 – 11/12, seller received 44 feedbacks. Of those positive feedbacks, only 2 attested to total satisfaction on a high-ticket item. 26 were positive feedbacks relative to low-ticket (under \$40, most under \$20) transactions. 2 were buying-related. 8 were positive, but indicative of a refund or transaction not completed. 6 said product was received but mentioned a significant delay. Though approximately 500 or more high-ticket (over \$1000) transactions were completed since August, very few buyers of high-ticket items during late August – November have left any feedback indicative of a product received. Buyers who purchased products in mid-late August are just beginning to leave feedback now. On another note, buyers leaving feedback refer to both a man and a woman as a seller. Since that time, she has received several more feedbacks, mostly indicative of a long wait time (6-8 weeks). She is diligent about keeping buyers happy, and is very strong in language about expecting a wait. She blames delays on "supplier delays and out of stock" – which according to her supplier are not an issue.

Retaliatory Feedback: Yes. Seller does appear to leave retaliatory feedback, and consistently withholds feedback until buyers leave her feedback. This is something buyers can find out easily before they leave her feedback, by clicking on "Feedback about others" in her profile. Seller thus provides impetus for buyers not to leave her negative or neutral feedback, even if she did not complete transaction or was delayed in delivery, for fear their own feedback will be badly impacted, especially by a "reputable seller."

Buyers Contacted: 14

Buyers Responded: 8

Suppliers Known: J&R Music World, Maspeth, NY (800) 426-6027

Scheme Present: Yes

Scheme Type: Ponzi

Scheme Summary: Factors that concerned me were: high number of feedbacks that were indicative of transactions not completed, pricing far below retail price, and feedback indicative of stalled or slow deliveries. With your knowledge, I approached the seller posing as college student researching online sales and looking for college credit through work experience. I offered "help" to seller at no cost, in order to understand her business offerings. Seller took offer under consideration. Once she knew I was contacting her buyers, she became extremely defensive and jumpy, asked me to stop contacting her buyers, and stopped contacting me.

I have been emailing her buyers since the week of 11/4. Buyers began responding that delivery was very slow, or that refunds were provided, with extra money, in lieu of product. Notably, On 11/11, I was contacted by Damon Viola, a buyer who purchased a Canon XL1 camcorder kit. Viola indicated the wait was approximately two months, but that the product was as advertised, and that Seller was friendly and very communicative. When asked, Viola said his camera arrived with an invoice from supplier J&R Music World, stating the item as billed to Nikki Brindle, and the price as \$3575. Buyer said he "actually paid over a thousand dollars less" than that price. (Ebay auction 1372234851). See attached emails for dialogue with Viola. Contact with several other buyers confirmed Viola's story about product purchased for much more than what buyer paid for it. In all cases, the invoices came from J&R Music World.

I contacted J&R Music World on 11/12 at approximately 2:00 p.m., by telephone. Spoke with Alex, a sales representative at extension 1023. I identified myself, and said my company might be looking to purchase several XL1 camcorders, and I asked what the lowest price would be if cameras were purchased in quantity. After consulting with a supervisor, Alex stated that the price would be the same whether I purchased "one or a hundred." He said the list price was \$3629, and that the price to us would be \$3565. When asked if anyone could hypothetically purchase an XL1 from them and sell it for \$2500, he said it was an "impossibility" and that something "very fishy" was going on, and that he would be "very suspicious." He said that they can only mark electronics down "so many points" and that they would "not make any money" selling them below \$3565. I thanked him for his time.

After more contact with buyers, I contacted J&R Music world again on 11/19, at approximately 3:30 p.m., and spoke with another salesperson who verified all of the above information, and also pricing on Apple Powerbooks. When asked if there was any way someone could be selling their products for 1000 less on eBay, the salesperson laughed and said "no way. There's something funny going on there."

Historically, Brindle began selling high-ticket computer and electronic items in May of 2002. Since then, based on figures for past two months, seller has likely completed over 800 high ticket item sales, either providing product at a significant loss, or offering refunds (with extra money for "inducements") to customers. Seller runs a graphic design company as well as other businesses (see link below to "About Me" page) which sell beeswax flowers and miniatures. Seller appears to have sold antiques and flowers for a long time before beginning to sell high-end electronics. She markets herself as an "artist" online. A little online research also revealed her maiden name (Carr), her college and high school names and one particular post (on her high school message board) indicated that she graduated in 1991, and was hoping that both "Chuck (husband) and I will both be working from home full time soon."

Interestingly, seller seems to consistently re-list her beeswax flower products (over 125 during the past 30 days alone), without a single bid for ANY of the 125 flower products listed. Seller markets her flower and miniatures businesses but does not market anywhere as an electronics and computer reseller, even on her "About Me" page, though that obviously makes up the vast majority of her sales income. Seller likely does this intentionally to keep herself off eBay's radar, since sellers who market themselves as computer resellers come under scrutiny, especially when offering pre-sales.

By keeping customers stalled, not leaving feedback until they leave it for her, and placating customers with excuses about supplier delays or refunds plus extra money, seller keeps her feedback

clean and is therefore able to generate enough cash flow to continue supplying orders, which in turn keep new orders coming in. Given her average six to eight week delay as well as the frequency of refunds and massive losses on product purchased and sold, the seller is likely operating a Ponzi scheme. If the seller's eBay account is allowed to remain active, seller can continue the scheme, ensuring that eventually, later customers will not receive product or a refund, due to the snowballing loss she has likely incurred. If seller's eBay ID is suspended, she will likely promise refunds and stall for time, then not be able to provide refunds to most buyers, and there may be a resultant loss. Logic follows that if she hasn't the personal or business credit to deliver orders up-front or within at least a month of taking them, she likely won't have the resources for a large loan for refunds. To be fair, there are her other businesses to consider (the graphic design agency and the miniatures businesses). There may be income from these businesses that allow her to take a large loss on these products, though it really wouldn't make sense anyway – why sell the product at a loss if you're making enough money to support yourself with another business already?

Contact with other buyers will likely echo information already received, such as delivery times in excess of USPS guidelines, invoices from suppliers that demonstrate product purchased at a large loss, or refunds offered with extra funds. Buyers contacted have indicated that others have asked similar questions, and that seller's behavior seems suspicious. Buyer Craig Pennuto stated in an email dated 11/13 that *when I was 7 days out [from advertised 30 day time frame] I told her I would be requesting a refund if the computer was not on my door in one week. She got a bit jumpy at that and offered to refund my money right away. She then stated that her "supplier" was late and the computer would arrive in three weeks, which was two weeks after the agreed date. I told her to cancel the deal and that I would think about reporting her. She got very defensive and offered to refund my money right away plus \$50 for my trouble.*

Other Information: Seller uses language about "scammers on eBay" frequently in her listings, and warns buyers about "scam artists" in three places on her listings. From auction listing page (11/9): *I know that there are some bad scam artists out there that are hurting the reputations of wonderful sellers such as myself. It is very important to me, that you feel comfortable with your purchase*

Seller Feedback: <http://cgi2.ebay.com/aw-cgi/eBayISAPI.dll?ViewItem&item=2068698197>

Tippecanoe_ites Recent Auction Listing: <http://cgi.ebay.com/ws/eBayISAPI.dll?ViewItem&item=2068698197>

Seller "About Me" Page: http://members.ebay.com/aboutme/tippecanoe_ites/

Seller Item Sort/Past 30 Days: <http://cgi6.ebay.com/ws/eBayISAPI.dll?ViewItem&item=2068698197>

Two Buyer Emails Follow; I can print and fax the rest:

With Buyer Craig Pennuto:

From: Craig Pennuto <pennutoc001@hawaii.rr.com>
To: <apcatz@mac.com>
Date: Wed November 13, 2002 10:25:31 AM PST
Subject: Re: Question from eBay Member

Hey Noah,

I did give positive feedback but there were considerations - in short I wouldn't recommend this seller if I were to do it again.
She deals in pre-sales and so has no merchandise on hand. I was not familiar with this process when I placed my bid.
She also states that if you do not receive the computer after 30 days from the auction closing, she will return your money.
I took her at her word and when I was 7 days out told her I would be

requesting a refund if the computer was not on my door in one week. She got a bit jumpy at that and offered to refund my money right away. She then stated that her "supplier" was late and the computer would arrive in three weeks, which was two weeks after the agreed date. I told her to cancel the deal and that I would think about reporting her. She got very defensive and offered to refund my money right away plus \$50 for my trouble.

When I think back on it now I think she offered to refund my money a bit too fast and put \$50 my way to keep me happy and unconcerned. I guess it worked because at the time I thought that was decent of her and so gave positive feedback. So although I didn't get the computer I felt things were fair. However, in hindsight I think that there may be something going on.

For starters, you are the third person to email me concerning this item. I would be curious if there is anyone that has received a computer from her. I have heard a lot of stories concerning pre-sale items. You take \$3000 from 10 or 20 people over a couple weeks time, keep their money for 6 weeks and then when the "supplier" doesn't come through, you simply refund their cash and of course keep the interest you invested on. I know this sounds cynical but I've learned that there is nothing that surprises me about people on the internet these days. My advice would be to stay away from pre-sale items like this one. Maybe she was totally honest and really was treating me fairly but with the amount of choices out there from people selling computers, I figure you don't have to bother with the pre-sale.

Hope this helps you decide.

Craig

On Wednesday, November 13, 2002, at 05:16 AM, apcatz@mac.com wrote:

> -----
>
>
> Dear Dotcom 732,
>
> I noticed your feedback for tippecanoe_ites, and was wondering if you
> could talk to me a little about your transaction with them. How long
> did it take to receive the merchandise? Was it as advertised? Most
> importantly, did you get a receipt from the supplier that can be used
> for warranty? Thanks, I am a student looking to be purchase and since
> her prices are so low, I want to be sure I don't get burned.
>
> Thanks in advance,
>
> Noah
>

With Buyer Damon Viola:

From: Damon Viola <damonv@ix.netcom.com>
To: <apcatz@mac.com>
Date: Tue November 12, 2002 11:23:09 AM PST
Subject: RE: Question from eBay Member

Noah,

There was receipt in the shipping carton from J&R Music World in Maspeth, NY. It showed the camera being ordered by Nikki Brindle in Warsaw, In. The other part that was the address label was addressed to me. It listed the unit price as \$3575.00. I actually paid Nikki over a thousand dollars

less than that. The camera came with all the warranty literature, card, etc of which I have not filled out yet. The phone number for J&R's customer service is 1 800 426-6027 if you want to call them. If you find out anything else from them, please let me know what they say. Just out of curiosity, what are you interested in bidding on?

Thanks and good luck!

Damon Viola

-----Original Message-----

From: Lori Applegate [mailto:apcatz@mac.com]

Sent: Monday, November 11, 2002 5:40 PM

To: Damon Viola

Subject: RE: Question from eBay Member

Dear Damon,

Thank you for getting back to me. I understand she uses third party suppliers - do you know where yours came from, and have you had any problems getting warranty service from them? Was your Canon invoice in your name or in hers?

Thanks, I appreciate the advice, I'll wait to hear back from you and then will probably purchase.

Noah

On Monday, Nov 11, 2002, at 03:31PM, Damon Viola <damonv@ix.netcom.com> wrote:

>Noah,

>

>I purchased a brand new Canon X11 video camera from her and it was at a >great price, hundreds less than anyone else had on Ebay or anywhere else for

>that matter. This was presale item, which means that the winning bidder

>pays up front and then the order is placed to the supplier. It's a great

>way to get good prices if you can wait for the item to be shipped. I think

>Ebay rules state that the order must be shipped within 30 days.

>Unfortunately in my case it ran about double that time. I have to say that

>she was very good about keeping me posted on the status. After about the

>second time she emailed me to tell me her supplier was still behind in

>shipping she offered me a refund if I did not want to wait any longer. I

>really wanted the camera, especially for the price I got it from so I

waited

>it out. All told, it took a over 60 days. She was very sorry that her

>supplier was holding things up and apologized more than once. She thanked

>me for my patience. Bottom line: even with the delay she was very

>professional all through the process and I personally would do business

>again with her.

>

>Hope this helps.

>

>Damon Viola

>

>-----Original Message-----

>From: apcatz@mac.com [mailto:apcatz@mac.com]

>Sent: Monday, November 11, 2002 1:17 PM

>To: damonv@ix.netcom.com

>Subject: Question from eBay Member

>

>-----

>

>

>Dear Damonviola,

>

>I've been thinking about purchasing from tippecanoe_ites, but I'm a college >student and can't afford to get burned. her prices are way below even

APC - This is the information we've been discussing regarding eBay seller "tippecanoe_ites" Page 8 of 8

>authorized reseller's selling points, and I'm wondering if you can tell me
>if the item checked out alright, how long it took to receive, and where the
>item came from? Any warranty issues? Thanks for answering my questions, she
>seems great but I want to be sure.
>
>Noah

12/30/02 08:04 FAX 15082310975

CATANZARO&ALLEN

***** ACTIVITY REPORT *****

TRANSMISSION OK

TX/RX NO.	1370
CONNECTION TEL	16177483974
CONNECTION ID	
START TIME	12/30 07:56
USAGE TIME	07'30
PAGES	10
RESULT	OK

CATANZARO AND ALLEN

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Angelo P. Catanzaro
 Jennifer M. D. Allen

Alison M. Fondo
 Rosemary A. Bosselait

EXHIBIT

B

Ronald M. Stone*
 Of Counsel

*Also admitted in Maine

FAX TRANSMISSION SHEET

DATE: November 6, 2003	
TO: Asst. U.S. Attorney Adam J. Bookbinder	
FAX NO: (617) 748-3974	
FROM: Angelo P. Catanzaro, Esq.	
RE: Teresa Smith	
FILE NO: CA-1973	
<p>COMMENTS/SPECIAL INSTRUCTIONS: Adam: attached is the report prepared by Teresa Smith regarding her analysis of what appears to be a large eBay fraud similar to the scheme for which Teresa plead guilty. As you recalled when we spoke last week, Teresa first alerted the United States to this situation prior to her sentencing. Recently she re-visited the issue and uncovered what she believes is a rather extensive pattern of fraud which we believe has and will impact hundreds of consumers. This information is being provided primarily as one means through which Teresa can continue to demonstrate her remorse over her own misconduct. I do however reserve all rights to use the fact of these disclosures in conjunction with a possible future judicial request to reduce her sentence. Please let me know the government's reaction to the inform once the appropriate agency has had the chance to review and verify same. Thank you for you anticipated assistance. Angelo P. Catanzaro</p>	
NUMBER OF PAGES (including the cover sheet): 9	<input checked="" type="checkbox"/> No Original Following ORIGINAL FOLLOWING BY: <input type="checkbox"/> U.S. Mail <input type="checkbox"/> UPS Next Day Air <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Other

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